

PASS-THROUGH ENTITIES: A NEW TAX BREAK FOR OHIO BUSINESS OWNERS



On June 14, 2022, Ohio passed a law to help pass-through entity ("PTE") owners deduct state taxes. The new law will provide PTE owners with a state "work-around" tax that is not intended to be subject to the \$10,000 cap on the federal income tax deduction for state and local taxes (SALT Cap). Ohio has now joined 28 other states in passing laws to allow a pass-through entity to elect to be taxed at the entity level.

Below, we have included the key highlights of this new law.

Annual Election

The annual election will be available for the 2022 tax year and will be made by the due date of the return (April 15) for entities with a calendar year-end.

Taxable Income

This new tax will be 5% on the entity's Ohio apportioned taxable income and the rate will be reduced to 3% in 2023. The current income tax rate on Ohio business income is 3%.

Taxes Paid by Electing Entity

Taxes paid by an electing entity are fully allowable on the owner's personal Ohio

income tax return as a refundable credit. What is unclear is whether entity-level taxes paid to other states will be allowable as a similar credit (the statute is silent on the matter).

Election for Non-Ohio Residents

Election for non-residents of Ohio relieves them of the requirement to file in Ohio. This assumes they have no other Ohio source of income. The non-resident can still choose to file in Ohio (and would be wise to do so) since Ohio's Small Business Deduction allows the income to be subject to a maximum rate of 3%.

Estimates of the tax are required but for 2022 the Q1 and Q2 deadlines have already passed. Some sort of penalty relief is likely, but it is still unclear. We expect more guidance and details to be released from the Ohio Department of Taxation on this new tax, particularly relating to how income adjustments and refundable credits will flow up to indirect owners of an electing PTE.

BMF Advisors can assist PTEs and their owners subject to Ohio taxation planning for these changes and the necessary procedures for making PTE tax elections under Ohio's new law.